IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7099 OF 2003

K. Yeshwant Sreenivasan . .. Petitioner.

vs.

P.K. Chandramouli & Ors. .. Respondents.

Mr. D.S. Sakhalkar for petitioner.

Mr. K.V. Ramadasan for respondent 1, 3 to 7.

CORAM : S.U. KAMDAR, J.

DATE : 12th December, 2005.

P.C.:

. The present petition challenges the order dated 8.8.2003 passed by the Charity Commissioner, Thane in Revision Application No. 19 of 2002. It is the case of the petitioner that the petitioner and two other trustees were the trustees of the trust but behind their back and without notice to them the present trustees have prepared a scheme and filed before the Charity Commissioner under Section 50 A of the Bombay Public Trusts Act, 1950. The Charity Commissioner in his impugned order has given a finding that though it is true that the petitioner is not heard and no notice was given but since he

was a party to the new scheme prepared by the trustees themselves, he need not be heard. The learned counsel for the petitioner has contended that he was never the party to the formulation of the said scheme as he was not aware of any such scheme being formulated by the trustees. The learned counsel for the respondent is not able to indicate that he had participated in any such meeting for framing the scheme. In that light of the matter, the impugned odder suffers from serious infirmity of not hearing the concerned and relevant party. Thus, the impugned order dated 7.1.2003 is quashed and set aside. The Mis. Application No. 17 of 2003 is remanded back to the Assistant Charity Commissioner for being decided afresh on merit and after affording opportunity to the petitioner of being hard. The Assistant Charity Commissioner will give notice to the petitioner before passing any fresh order. Petition is disposed of accordingly. No order as to costs. Misc. Application No. 17 of 2003 is allowed and the order dated 7.1.2003 is quashed and set aside and the matter is remanded back for a fresh hearing.